

118TH CONGRESS
1ST SESSION

S. _____

To direct the Federal Trade Commission to prescribe rules prohibiting the marketing of firearms to minors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To direct the Federal Trade Commission to prescribe rules prohibiting the marketing of firearms to minors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Kids from
5 Gun Marketing Act”.

6 **SEC. 2. PROHIBITION OF MARKETING FIREARMS TO MI-**
7 **NORS.**

8 (a) CONDUCT PROHIBITED.—

9 (1) IN GENERAL.—Not later than 1 year after
10 the date of enactment of this Act, the Commission

1 shall, in accordance with section 553 of title 5,
2 United States Code, promulgate rules to prohibit
3 any manufacturer, dealer, or importer, or agent
4 thereof, from marketing or advertising a firearm or
5 any firearm-related product to a minor in a manner
6 that is designed, intended, or reasonably appears to
7 be attractive to a minor.

8 (2) CONSIDERATIONS.—In determining whether
9 any marketing or advertising reasonably appears to
10 be attractive to a minor for purposes of paragraph
11 (1), the Commission shall consider the totality of the
12 circumstances, including whether such marketing or
13 advertising does any of the following:

14 (A) Uses any cartoon character, any cari-
15 cature, or any meme that reasonably appears to
16 be a minor, or intended to appeal to minors, to
17 promote any firearm or firearm-related product.

18 (B) Offers to minors any brand name mer-
19 chandise of a manufacturer, dealer, or importer
20 (including any hat, t-shirt, other clothing, toy,
21 game, or stuffed animal) that promotes a fire-
22 arm or firearm-related product.

23 (C) Offers any firearm or firearm-related
24 product with features, sizes, or designs that are

1 specifically designed to be used by, or appeal to,
2 minors.

3 (D) Uses any image or depiction of a
4 minor to depict the use or handling of a firearm
5 or firearm-related product.

6 (E) Is intended to reach an audience that
7 is predominately composed of minors and not
8 intended for a more general audience composed
9 of adults.

10 (F) Offers any firearm or firearm-related
11 product as a gift to a minor in order to promote
12 or advertise any firearm or firearm-related
13 product of a manufacturer, dealer, or importer.

14 (G) Promotes the contracts of the manu-
15 facturer, dealer, or importer with the Federal
16 Government or United States Armed Forces to
17 imply an affiliation or endorsement of the man-
18 ufacturer, dealer, or importer's firearms or fire-
19 arm-related products.

20 (b) ENFORCEMENT.—

21 (1) ENFORCEMENT BY THE COMMISSION.—

22 (A) UNFAIR OR DECEPTIVE ACTS OR PRAC-
23 TICES.—A violation of a rule promulgated
24 under subsection (a) shall be treated as a viola-
25 tion of a rule defining an unfair or deceptive

1 act or practice under section 18(a)(1)(B) of the
2 Federal Trade Commission Act (15 U.S.C.
3 57a(a)(1)(B)).

4 (B) POWERS OF THE COMMISSION.—

5 (i) IN GENERAL.—The Commission
6 shall enforce the rules promulgated under
7 subsection (a) in the same manner, by the
8 same means, and with the same jurisdic-
9 tion, powers, and duties as though all ap-
10 plicable terms and provisions of the Fed-
11 eral Trade Commission Act (15 U.S.C. 41
12 et seq.) were incorporated into and made a
13 part of this Act.

14 (ii) PRIVILEGES AND IMMUNITIES.—
15 Any person who violates a rule promul-
16 gated under subsection (a) shall be subject
17 to the penalties and entitled to the privi-
18 leges and immunities provided in the Fed-
19 eral Trade Commission Act (15 U.S.C. 41
20 et seq.).

21 (iii) AUTHORITY PRESERVED.—Noth-
22 ing in this section shall be construed to
23 limit the authority of the Commission
24 under any other provision of law.

1 (iv) RULEMAKING.—The Commission
2 shall promulgate, in accordance with sec-
3 tion 553 of title 5, United States Code,
4 such rules as may be necessary to carry
5 out this section.

6 (2) ENFORCEMENT BY STATE ATTORNEYS GEN-
7 ERAL.—

8 (A) IN GENERAL.—

9 (i) CIVIL ACTIONS.—In any case in
10 which the attorney general of a State has
11 reason to believe that an interest of the
12 residents of that State has been or is
13 threatened or adversely affected by the en-
14 gagement of any person in an act or prac-
15 tice that violates a rule promulgated under
16 subsection (a), the State, as *parens*
17 *patriae*, may bring a civil action on behalf
18 of the residents of the State in a Federal
19 court of appropriate jurisdiction to—

20 (I) enjoin that act or practice;

21 (II) enforce compliance with such
22 rule;

23 (III) on behalf of residents of the
24 State, obtain damages, restitution, or
25 other compensation; or

1 (IV) obtain such other legal or
2 equitable relief as the court may con-
3 sider to be appropriate.

4 (ii) NOTICE.—

5 (I) IN GENERAL.—Before filing
6 an action under clause (i), the attor-
7 ney general of the State involved shall
8 provide to the Commission—

9 (aa) written notice of that
10 action; and

11 (bb) a copy of the complaint
12 for that action.

13 (II) EXEMPTION.—

14 (aa) IN GENERAL.—Sub-
15 clause (I) shall not apply with re-
16 spect to the filing of an action by
17 an attorney general of a State
18 under this subparagraph if the
19 attorney general of the State de-
20 termines that it is not feasible to
21 provide the notice described in
22 that subclause before the filing of
23 the action.

24 (bb) NOTIFICATION.—In an
25 action described in item (aa), the

1 attorney general of a State shall
2 provide notice and a copy of the
3 complaint to the Commission at
4 the same time as the attorney
5 general files the action.

6 (B) INTERVENTION.—

7 (i) IN GENERAL.—On receiving notice
8 under subparagraph (A)(ii), the Commis-
9 sion shall have the right to intervene in the
10 action that is the subject of the notice.

11 (ii) EFFECT OF INTERVENTION.—If
12 the Commission intervenes in an action
13 under clause (i), it shall have the right—

14 (I) to be heard with respect to
15 any matter that arises in that action;
16 and

17 (II) to file a petition for appeal.

18 (C) LIMITATION ON STATE ACTION WHILE
19 FEDERAL ACTION IS PENDING.—If the Commis-
20 sion has instituted a civil action for violation of
21 this Act, no State attorney general, or official
22 or agency of a State, may bring an action under
23 subparagraph (A) during the pendency of that
24 action against any defendant named in the com-

1 (ii) reasonable attorney’s fees, reason-
2 able expert witness fees, and litigation
3 costs; and

4 (iii) any other relief, including equi-
5 table or declaratory relief, that the court
6 determines appropriate.

7 (C) INJURY IN FACT.—Any individual in-
8 jured as the foreseeable consequence of a viola-
9 tion of a rule promulgated under subsection (a)
10 constitutes a concrete and particularized injury
11 in fact to that individual.

12 (c) REPORTS.—

13 (1) REPORT ON PLAN FOR ENFORCEMENT;
14 BUSINESS AND CONSUMER EDUCATION.—Not later
15 than 60 days after the date on which the Commis-
16 sion issues a final rule under subsection (a)(1), the
17 Commission shall—

18 (A) submit to Congress a report detailing
19 a plan to enforce such rule (but not including
20 any information on the investigative techniques
21 of the Commission); and

22 (B) issue business and consumer education
23 about this Act and such rule in order to inform
24 the marketplace about how to comply with such
25 rule.

1 (2) BIENNIAL REPORT.—Beginning on the date
2 that is 1 year after the date of enactment of this
3 Act, and biennially thereafter, the Commission shall
4 submit to Congress a report that includes, with re-
5 spect to the previous year, a description of—

6 (A) any enforcement action taken by the
7 Commission under this Act or a rule promul-
8 gated thereunder; and

9 (B) the outcome of any such action.

10 (d) SEVERABILITY.—If any provision of this Act is
11 determined to be unenforceable or invalid, the remaining
12 provisions of this Act shall not be affected.

13 (e) DEFINITIONS.—In this Act:

14 (1) COMMISSION.—The term “Commission”
15 means the Federal Trade Commission.

16 (2) DEALER; FIREARM; IMPORTER; MANUFAC-
17 TURER.—The terms “dealer”, “firearm”, “im-
18 porter”, and “manufacturer” have the meaning
19 given those terms in section 921 of title 18, United
20 States Code.

21 (3) FIREARM ACCESSORY.—The term “firearm
22 accessory” means an attachment or device designed
23 or adapted to be inserted into, affixed onto, or used
24 in conjunction with, a firearm which is designed, in-
25 tended, or functions to alter or enhance the firing

1 capabilities of the firearm, the lethality of the fire-
2 arm, or a shooter's ability to hold, carry, or use the
3 firearm.

4 (4) FIREARM-RELATED PRODUCT.—The term
5 “firearm-related product” means a firearm, ammu-
6 nition, reloaded ammunition, a firearm precursor
7 part, a firearm component, or a firearm accessory.

8 (5) MINOR.—The term “minor” means an indi-
9 vidual that is less than 18 years of age.